

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
387339

First named inventor: Rex Baxter

Application No.: 10/620,545

Art Unit: 3635

Filed: July 16, 2003

Examiner: Jessica L. Laux

Title: Method For Extruding And Product Of The Method

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity - fee \$770 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$_____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☐ has been filed previously on _____ .
☐ is enclosed herewith.

B. The issue fee of \$ 700

- ☐ has been paid previously on _____ .
☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))]. An Additional Statement Of Facts is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



Signature

Robert J. Lambrechts

Typed or printed name

January 30, 2008

Date

46,854

Registration Number, if applicable

2345 Grand Boulevard, Suite 2400

Address

(913) 451-5126

Telephone Number

Kansas City, Missouri 64108

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other : _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	R. BAXTER, et al.	Examiner	Jessica L. LAUX
Serial No.	10/620,545	Group Art No.	3635
Filed	July 16, 2003	Confirmation No.	8436
For	Method For Extruding And Product Of The Method		

Mail Stop Petition
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO REVIVE PATENT APPLICATION FOR UNINTENTIONAL
FAILURE TO PAY ISSUE FEE (37 CFR § 1.137(b) and 1.316)**

1. The Applicants petition for revival of the above listed patent application.
2. The nature of the abandonment occurred from a review of the docketing records of the undersigned's patent docket and it was noted that the issue fee for the above listed patent application was not timely paid.
3. This Petition is being filed more than one year after the actual abandonment but diligently after the applicants' representative's discovery of the abandonment.
4. The delay in payment of the issue fee was unintentional. The entire delay from the due date in paying the required issue fees until the filing of this Petition was unintentional. 37 C.F.R. § 1.137(b)(3).
5. The Issue Fee of \$1440, for a large entity, and the publication fee of \$300, for the above listed patent application, are being paid herewith.
6. The Petition Fee (35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.17(m)) of \$1540, for a large entity, for the above listed patent application, is being paid herewith.
7. Please charge all of the aforementioned fees as well as any underpayments of these fees or any other fees deemed necessary in connection with this Petition, or credit any overpayments, to Deposit Account No. 12-0600.
8. Because this Petition is made more than one year after the date of abandonment of the above listed patent application, the applicants additionally submit a Statement of Facts In Support Of Petition To Revive For Unintentional Failure To Pay Issue Fee (37 C.F.R. § 1.137(b) and 1.316) (Statement of Facts)

with this Petition. This Statement of Facts provides further information as to when the applicants' representative first became aware of the abandonment of the above listed patent application, and a showing as to how the delay in discovering the abandoned status of the above listed application occurred despite the exercise of due care of diligence on the part of the applicants' representative. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997). See M.P.E.P., § 711.03(c), 8th Ed., Rev. 2.

9. As the above listed patent application is a non-provisional utility patent application filed after June 8, 1995, a Terminal disclaimer is not needed.

Respectfully submitted,

LATHROP & GAGE, LC

Date: January 23, 2008

By: 

Robert J. Lambrechts, Reg. No. 46,854
2345 Grand Blvd., Suite 2400
Kansas City, Missouri 64108
Tel: (816) 292-2000
Fax: (816) 292-2001
Attorney for Applicants

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	R. BAXTER, et al.	Examiner	Jessica L. LAUX
Serial No.	10/620,545	Group Art No.	3635
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For	Method For Extruding And Product Of The Method		

Mail Stop Petition
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT OF FACTS IN SUPPORT OF PETITION TO REVIVE FOR
UNINTENTIONAL FAILURE TO PAY
ISSUE FEE (37 CFR § § 1.137(b) and 1.316)**

I, Robert J. Lambrechts, state as follows:

1. I am a Registered United States Patent Attorney with the law firm of Lathrop & Gage L.C. (hereinafter Lathrop & Gage), whose offices are located at 2345 Grand Boulevard, Suite 2400, Kansas City, Missouri 64108. I am a Member of the Missouri and Kansas Bars.
2. I make this statement as to the exact facts that are relied upon to establish the diligent effort made to secure payment of the Issue Fee for U.S. Patent Application Serial No. 10/620,545, the above listed patent application, in accordance with the facts stated below. I make this statement with first-hand knowledge of all facts recited herein.
3. A Notice of Abandonment for the above listed patent application, as sent from the United States Patent and Trademark Office (USPTO), was never

received by Lathrop & Gage, at 2345 Grand Avenue, Suite 2800, Kansas City, MO 64108.

4. The unpaid Issue Fee was discovered by Lathrop & Gage's patent and trademark docketing administrator, Melissa R. Turpen (MRT), during a docketing status check on or about June 25, 2007, for documentation as to payment of the aforementioned Issue Fee. Ms. Turpen noticed that she, as the docketing administrator, had not received any documentation on payment of the aforementioned Issue Fee. Ms. Turpen notified Ms. Chalynda Renz (CMR), the Chief Patent Paralegal at Lathrop & Gage, of this non-received documentation, who indicated the need for a Petition To Revive to pay the aforementioned Issue Fee. Ms. Turpen entered notes of these events into a Docketing Report, maintained by Lathrop & Gage in its Master Patent Docket. The Docketing Report is attached hereto as Exhibit A, with entered notes of the aforementioned events indicated by the bracket labeled A-A.
5. The Master Patent Docket, from which the aforementioned Docketing Report is created, that was and is used by Lathrop & Gage, is PC Master® from Master Data Center (MDC) of Southfield, Michigan (now Thomson Scientific IP Management Services). The PC Master® patent docketing system software is an industry standard patent docketing system.
6. Ms. Turpen then made the entry for a Petition to Revive into the Lathrop & Gage Master Patent Docket. The petition was assigned to Registered

U.S. Patent Attorney, Jerome R. Smith, Jr. (Reg. No. 35,684), an Attorney employed by Lathrop & Gage, who began working on the Petition to Revive to the date herewith. This is indicated in Exhibit A, with an entry to the aforementioned events indicated by the bracket labeled as A-B.

7. Once it was determined that the Issue Fee for the above listed patent application was not paid, Lathrop & Gage took all steps necessary to determine the status of the above listed patent application and act diligently and without delay to petition the USPTO to revive the above listed patent application and accept the Issue Fee.
8. I hereby declare that all statements made herein of my own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

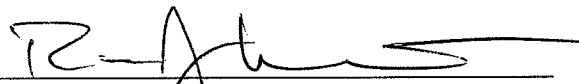

Robert J. Lambrechts, Reg. No. 46,854
Date: January 23, 2008

EXHIBIT A

(Three Sheets)

1/18/2008

Patent Information Print

Matter No	387339	Patent No	
Country	United States	Application #	10/620,545
Case Type	Regular	Parent No	
Relation Type	Original Filing	Parent Country	
Filing Type	National	Sub Stat	Allowed
Filing Number		Status	Filed
Attorney	Robert J. Lambrechts	Total Claims	40
Agent		Ind. Claims	4
Client	Variform, Inc.	Expiration Dt	
Current Owner	Variform, Inc.	Assigned	
Atty 2		Associate	
Cfm. No.	8436	Asst.	
Custom Code #1		Para	
Next Tax Dt		Prev Owner	
Tax Base Dt		Ag Ref No	
Publication Dt	1/20/2005	Clk Dkt No	
Grant Dt		Text #2	
Application Dt	7/16/2003	Verified	N
Parent Grant Dt		Customer	L3PP
Parent Filing Dt		Create Dt	7/28/2003
Sub Stat Dt	2/14/2006	Update Dt	12/6/2007
First Filing Dt	7/16/2003	Update Tm	1240
Conv Type		Update User	MRT
Publication #	2005/0013968A1	Update Type	

Actions

Action	Postcard Inquiry	Comp Dt	8/15/2003
Act Due Date	9/16/2003	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Info Discl. Statement	Comp Dt	10/16/2003
Act Due Date	10/16/2003	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Reminder - Corrected App Pap	Comp Dt	12/16/2003
Act Due Date	11/16/2003	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Corrected App Papers Due	Comp Dt	12/16/2003
Act Due Date	12/16/2003	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Foreign Filing due in 6mo	Comp Dt	4/16/2004
Act Due Date	1/16/2004	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Foreign Filing due in 3mo	Comp Dt	4/16/2004
Act Due Date	4/16/2004	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Foreign Filing due in 1mo	Comp Dt	6/16/2004
Act Due Date	6/16/2004	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Foreign File Complete	Comp Dt	7/16/2004
Act Due Date	7/16/2004	Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			
Action	Publication Notice	Comp Dt	1/20/2005
Act Due Date	1/16/2005	Resp Atty #1	

Mailed to PTO
Drop Dead Date

Resp Atty #2

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction Mail Dt
9/19/2005

Comp Dt
Resp Atty #1
Resp Atty #2

9/19/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction Due
10/19/2005

Comp Dt
Resp Atty #1
Resp Atty #2

10/4/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction w/ 1st Ext due
11/19/2005

Comp Dt
Resp Atty #1
Resp Atty #2

10/4/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction w/ 2nd Ext due
12/19/2005

Comp Dt
Resp Atty #1
Resp Atty #2

10/4/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction w/ 3rd Ext due
1/19/2006

Comp Dt
Resp Atty #1
Resp Atty #2

10/4/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Notice of Allowance
2/14/2006

Comp Dt
Resp Atty #1
Resp Atty #2

2/14/2006

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction w/ 4th Ext due
2/19/2006

Comp Dt
Resp Atty #1
Resp Atty #2

10/4/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Restriction Final Deadline
3/19/2006

Comp Dt
Resp Atty #1
Resp Atty #2

10/4/2005

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Reminder Issue Fee
4/14/2006

Comp Dt
Resp Atty #1
Resp Atty #2

4/14/2006

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Issue Fee Due
5/14/2006

Comp Dt
Resp Atty #1
Resp Atty #2

Act Notes
Emailed CMR 6/25/2007 to check status of appl. Docketing has not received payment of Issue fee.
p/ CMR we are going to file a petition to revive.

A-A

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Petition to Revive
11/17/2007

Comp Dt
Resp Atty #1
Resp Atty #2

A-B

Act Notes
As of 12/6/2007; Jerome Smith is working on.

Action
Act Due Date
Mailed to PTO
Drop Dead Date

Petition to Revive
12/17/2007

Comp Dt
Resp Atty #1
Resp Atty #2

Act Notes

Jerome is working on.

Action	Patent Term Adjustment	Comp Dt	2/14/2006
Act Due Date		Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			

Act Notes
378 days

Action	Miscellaneous Note	Comp Dt	12/6/2007
Act Due Date		Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			

Action	Notice of Abandonment	Comp Dt	6/28/2006
Act Due Date		Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			

Action	Filing Receipt Received	Comp Dt	10/16/2003
Act Due Date		Resp Atty #1	
Mailed to PTO		Resp Atty #2	
Drop Dead Date			

****Inventors****

Inv Name	Rex Baxter	Assigned
Inv Name	Ade Adebo	Assigned

****Title****

Title
Method for Extruding and Product of the Method